



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2015-0117]**

**Denial of Exemption Applications; Epilepsy and Seizure Disorders**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of denial.

**SUMMARY:** FMCSA announces its decision to deny applications from seven individuals who requested an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) prohibiting persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce.

**FOR FURTHER INFORMATION CONTACT:** Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE, Room W64-224, Washington, DC 20590-0001. Office hours are 8:30 a.m. to 5 P.M., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**I. Electronic Access**

You may see all the comments online through the Federal Document Management System (FDMS) at: <http://www.regulations.gov>.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> and/or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

## **II. Background**

On August 12, 2015, FMCSA published a notice announcing receipt of applications from 12 individuals requesting an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a CMV in interstate commerce and requested comments from the public (80 FR 48406). The public comment period closed on September 11, 2015, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and concluded that granting seven of the 12 exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(8). A final notice announcing the decision to grant five of the 12 exemptions and providing a response to the one comment received was published on June 13, 2016 (FR 81 38262).

### **III. Basis for Exemption Determination**

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the Federal epilepsy standard for a renewable two-year period if it finds “such exemption is likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.”

The Agency’s decision regarding these exemption applications is based on an individualized assessment of each applicant’s medical information, including the root cause of the respective seizure(s) and medical information about the applicant’s seizure history, the length of time that has elapsed since the individual’s last seizure, the stability of each individual’s treatment regimen and the duration of time on or off of anti-seizure medication. The Agency considered the 2007 recommendations of the Agency’s Medical Expert Panel (MEP). The January 15, 2013 Federal Register notice (78 FR 3069) provides the current MEP recommendations which is the criteria the Agency uses to make decisions regarding seizure exemptions.

### **IV. Conclusion**

The Agency has determined that these seven applicants do not satisfy the criteria eligibility or meet the terms and conditions for a Federal exemption and granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(8). Therefore, the applicants in this notice have been denied an exemption from the physical qualification standards in 49 CFR 391.41(b)(8).

Each applicant has, prior to this notice, received a letter of final disposition regarding his/her exemption request. Those decision letters fully outlined the basis for the

denial and constitutes final action by the Agency. This notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial. The following drivers were listed previously in Federal Register Notice FMCSA-2015-0117 published on August 12, 2015:

Nicholes Arroyo – Mr. Arroyo has a history of epilepsy. His last seizure was in 2014. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Kevin Scott Brelsford – Mr. Brelsford has a history of epilepsy. His last seizure was in 2010. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Donald Adin Horst – Mr. Horst has a history of a single provoked seizure in 2009 as the result of a subdural hematoma. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Bradley Jolley – Mr. Jolley has a history of a epilepsy. Mr. Jolley did not provide enough medical information to determine the date of his last seizure. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Charles Ray Paul – Mr. Paul has a history of epilepsy. His last seizure was in 2006, and his medical documentation notes that he experiences stereotypical auras. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Eric Lee Troendle – Mr. Troendle has a history of a brain tumor. His last seizure was in 2014. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Brian J. Underwood – Mr. Underwood has a history of epilepsy. His last seizure was in 2003. Mr. Underwood did not provide enough medical information to determine the last change in his anti-seizure medication. He does not meet the MEP guidelines at this time.

**Issued on: August 26, 2016**

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Larry W. Minor  
Associate Administrator for Policy

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